

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.4155 OF 2005

Prashant Shivaji Jadhav.

...Petitioner.

Vs.

State of Maharashtra & Ors.

...Respondents.

....

Mr. R. K. Mendadkar for the Petitioner.

Mr. C. R. Sonawane, AGP for the Respondents.

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CORAM : A.P. SHAH AND

DR.D.Y.CHANDRACHUD, JJ.

June 29, 2005.

P.C.:

The Petitioner claims to belong to the Thakar Tribe which is recognised as a Scheduled Tribe in the State of Maharashtra. In support of his claim, the Petitioner has relied upon the Primary School record dating back to 1933 of the brother of the Petitioner's grandfather and the school record of the Petitioner's father. Both these documents contain a reference to the Thakar Tribe.

2. The Petitioner's father moved the Sub Divisional Officer, Wai for the grant of a caste certificate on 10th June 2004. Since the application was not disposed of, this Court was moved in Writ Petition 7693 of 2004 in which on 17th September 2004, there was a direction to the Fourth Respondent to dispose of the application

within three months. The the Sub Divisional Officer by his order dated 20th December 2004, declined to grant a caste certificate. According to the Petitioner, the order of the Sub Divisional Officer is erroneous since the order relies upon an area restriction which was removed by the Parliament on 27th July 1977. The Petitioner filed a substantive appeal before the Scrutiny Committee against the refusal of a caste certificate. Since the appeal was not disposed of, this Court was moved in Writ Petition 2830 of 2005 and on 3rd May 2005, the Scrutiny Committee was directed to dispose of the appeal within a period of three months. In pursuance of the direction issued by this Court, the Petitioner and his father appeared before the Scrutiny Committee on 12th May 2005. The Scrutiny Committee is yet to render its decision.

3. The Petitioner has appeared for the Common Entrance Test held by the Directorate of Medical Education. The result has been declared on 14th June 2005. The Petitioner seeks to apply for admission to the M. B. B. S. Degree Course and the immediate reason for moving these proceedings is that unless a decision on his Tribe Claim is expedited, his admission to a Medical College would be hindered.

4. Since the Division Bench in the order dated 3rd May 2005 has directed the Scrutiny Committee to dispose of the appeal filed by the Petitioner against the refusal of a caste certificate within a period of three months, no further directions in that regard are necessary. The Scrutiny Committee shall comply with those directions. In the event that the Scrutiny Committee accedes to the claim of the Petitioner for the grant of a caste certificate, we are of the view that it would be appropriate to direct the Scrutiny Committee to determine whether a caste validity certificate should thereupon be granted to the Petitioner within a period of three months. In the event that the Scrutiny Committee dismisses the appeal filed by the Petitioner and declines to accede to the request of the Petitioner to grant a caste certificate, it would be open to the Petitioner to adopt such remedies as are available in law. In the meantime, having regard to the material which has been placed on the record, but without expressing any final or conclusive view on the Tribe Claim of the Petitioner, we direct that the Third Respondent shall process the application for admission of the Petitioner on the basis that he belongs to the Thakar Tribe. In the event that the Petitioner is otherwise held to be eligible in order of

merit in the reserved category, he shall be granted provisional admission subject to the production of a caste certificate and the caste validity certificate. The Petitioner shall file an undertaking within a period of two weeks from today in this Court that in the event that the caste certificate is refused to him, his admission shall stand revoked. The Petition is accordingly disposed of. There shall be no order as to costs.

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